

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL BRECHT,

Plaintiff, No. CIV S-05-0859 KJM

vs.

BNSF RAILWAY COMPANY,

Defendant. ORDER

Plaintiff's motion to compel came on regularly for hearing May 24, 2006. Fred Diamondstone appeared telephonically for plaintiff. Jacob Flesher appeared for defendant. Robert Davies appeared for the third party defendant. Upon review of the documents in support and opposition, upon hearing the arguments of counsel, and good cause appearing therefor, THE COURT FINDS AND ORDERS AS FOLLOWS:

1. Defendant shall within ten days produce model 6700 or model 6700 S tamper with a foot pedestal of the type used by plaintiff and of the type originally provided with tamper number 245; unless alternative arrangements are mutually agreed to by the parties, said production shall be located at Vancouver, Washington or at a location in the state of Oregon that is convenient to Corvallis and where the tamper can be operated on conditions similar to those which existed at the time plaintiff operated said tamper.

2. An award of expenses under Federal Rule of Civil Procedure 37 is not warranted.

3. The dates pertaining to expert disclosure and expert discovery set forth in the January 10, 2006 scheduling order are each extended by fourteen days.

DATED: May 25, 2006.

UNITED STATES MAGISTRATE JUDGE

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